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NOTICE OF ALLOWANCE AND FEE(S) DUE

26694

7590

05/09/2008

VENABLE LLP

P.O. BOX 34385

WASHINGTON, DC 20043-9998

EXAMINER

AKINTOLA, OLABODE

ART UNIT

PAPER NUMBER

3691

DATE MAILED: 05/09/2008

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/963,742

09/27/2001

Rob R. Montgomery

35646-175183

9308

TITLE OF INVENTION: BUYER-SIDE AUCTION DYNAMIC PRICING AGENT, SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$720	\$300	\$0	\$1020	08/11/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

26694 7590 05/09/2008

**VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998**

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/963,742 09/27/2001 Rob R. Montgomery 35646-175183 9308

TITLE OF INVENTION: BUYER-SIDE AUCTION DYNAMIC PRICING AGENT, SYSTEM, METHOD AND COMPUTER PROGRAM PRODUCT

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
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nonprovisional YES \$720 \$300 \$0 \$1020 08/11/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
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AKINTOLA, OLABODE 3691 705-037000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/147; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

1

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.111. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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09/963,742	09/27/2001	Rob R. Montgomery	35646-175183	9308
26694	7590	05/09/2008	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			AKINTOLA, OLABODE	
			ART UNIT	PAPER NUMBER

3691
DATE MAILED: 05/09/2008

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1342 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1342 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

09/963,742

Examiner

OLABODE AKINTOLA

Applicant(s)

MONTGOMERY, ROB. R.

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the communication filed on 01/18/2008.
2. ☒ The allowed claim(s) is/are 1, 7, 8, 14-18 and 20-24.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Caroline Swindell on 03/20/08.

Claims

2-6. (Cancelled).

9-13. (Cancelled).

19. (Cancelled).

7. (Currently amended) The method according to claim 1, wherein (d) comprises:

~~4-~~ notifying the bidder when a current bid of a targeted auction exceeds programmed bid parameters of the bid proxy, comprising at least one of:

a. examining with an internal scan agent, bid information stored in the portfolio of the bidder;
and

b. sending information to the bidder using at least one of wired and/or wireless messaging technologies including at least one of an email, a page, a text page, an instant message, a short

message system (SMS) message, a multimedia message system (MMS) message, and/or a communication, if a programmed bid with invalid bid parameters and/or other important information is detected.

8. (Currently amended) The method according to claim 1, wherein (d) comprises:

~~+~~ notifying the bidder when an auction has been won using at least one of a bid proxy of the bidder and/or a programmed bid, wherein information is sent to the bidder using at least one of wired and/or wireless messaging technologies including at least one of an email, a page, a text page, an instant message, a short message system (SMS) message, a multimedia message system (MMS) message, a communication, and a hypertext link to bid information stored in the portfolio of the bidder

14. (Currently amended) The method according to claim 1, wherein (b) comprises:

~~+~~ managing at least one of payment instruments, payment devices, contact, and/or financial status, of the bidder through an online, personalizable bidder profile account (~~account~~) for auction win settlement comprising:

- a. presenting registration content to the bidder for the collection of contact information including at least one of an email, a physical mail address, a telephone number, a pager, and/or an alternative contact information, and/or financial instrument information;
- b. creating an account information record in a database of the information and linking the account information record to any activated auction portfolios of the bidder; and

c. providing access for the bidder to access the account information record and/or modify the account information record as needed subsequent to bidder authentication.

16. (Currently Amended) The method according to claim 24, further comprising:

h. receiving one or more persistent search agents that are programmed, persistent and operative to search one or more auction sites for product auctions of a desired product and providing returned auctions that a bid proxy can execute using at least one of a directed programmed bid, and/or an algorithmically calculated bid, wherein the one or more persistent search agents periodically search a list of a plurality of auction sites for product auctions that correlate with preference information stored in the portfolio of the bidder, comprising:

~~1.~~ creating entries by the bidder for each kind of product of which the bidder desires to be notified if an auction for a product containing this description becomes available for bidding on any and all auction sites;

~~2.~~ periodically searching, using the one or more persistent search agents, search services of the plurality of auction sites to see if a matching product can be found in listed auctions; and

~~3.~~ sending, to the bidder, a link to a found auction communicated using at least one of wired and/or wireless messaging technology, if any matches are found; and

i. receiving at least one of definitions of programmed bidding parameters of the directed programmed bid to the bid proxy, and/or authorization of the bid proxy to algorithmically compute a lowest market bid based on reviewing prevailing market bids for similar products as determined by information stored in a data warehouse.

Allowable Subject Matter

Claims 1, 7-8, 14-18 and 20-24 are allowed.

Examiner's Statement of Reason for allowance

The following is a statement of reasons for the indication of allowable subject matter:

The most relevant references are the *Rackson*, *Wagoner*, *Miller* and *Srinivasan* references.

Rackson discloses a system and corresponding method of automating an interaction between a bidder and an electronic, dynamic pricing online auction hosting service comprising:

a. receiving a registration of a bidder at an online, computer implemented, Internet-based, web-enabled, bidder bidding application site, wherein said bidder centric bidding automation services application site is separate from any online auction hosting services site, by creating logon credentials that are used to at least one of authenticate and/or authorize the bidder's use of services of the bidder bidding automation services application site (fig. 11, col. 14, lines 17-49); and receiving at least one bid account including logon credentials of at least one online auction hosting services site of the bidder (fig. 11, col. 14, lines 17-49);

c. receiving at least one online auction and one of said at least one online auction hosting services sites associated with said at least one auction and storing said at least one auction in a bid portfolio of the bidder for acquiring data using at least one scan agent and/or at least one bid proxy (fig. 11, col. 14, lines 17-49);

e. enabling activating of the at least one bid on said at least one auction of said at least one online auction hosting services site by emulating the bidder's navigation and command input to said at least one auction hosting services site (fig. 11, col. 14, lines 17-49).

Miller discloses

b. receiving financial transaction instrument information of the bidder to fund the bidder bidding automation services (page 133, 137);

Wagona discloses

d. providing monitoring of temporal progression of the at least one auction, and notifying the bidder and/or the at least one bid proxy of any changes affecting the bidder's programmed bid parameters of the at least one auction, wherein said monitoring is performed according to bidders specification which is used to delay the bidder's proxy bids such as submitting proxy bids ten minutes after a subsequent high bid is received from a different bidder or submitting proxy bids twenty minutes before the close of the auction (paragraph 0040);

e. the at least one bid proxy placing at least one bid, driven by said programmed bid parameters, until said at least one auction is either won or lost by the time of auction close of said at least one auction, wherein said at least one scan agent determines whether or not a competitive bid has outbid a most recent bid of the bidder (paragraph 0040).

f. activating the at least one bid proxy to programmatically place at least one counter bid, if said competitive bid is placed and detected before the time of auction closing of said at least one auction, wherein said at least one counter bid comprises computing and executing a valid

higher bid for a forward auction or a lower bid for a reverse auction, that is within said programmed bid parameters, if said competitive bid has been made and accepted by the auction site that is higher for the forward auction or lower for the reverse auction than the most recent bid detected by the at least one scan agent (paragraph 0040).

Srinivasan discloses providing monitoring using at least one scan agent for monitoring an auction site (abstract)

Rackson, Wagoner, Miller and Srinivasan fail to teach

wherein said monitoring by the at least one scan agent is performed at least within a time of auction closing window(TACW), wherein TACW is a function of at least one of: a current bid, a relative differential bid value, a minimum valid bid increment, auction hosting services site performance parameters, auction site telemetry information computed based on recent response times and network latencies as determined by the scan agent, and/or delay close counter measures.

(TACW is defined on page 6, lines 9-13 of the specification).

Updated searches revealed no references that disclosed the claimed invention, nor were any further references identified which could be reasonable combined with *Rackson, Wagoner, Miller and Srinivasan*.

For this reason, claims 1, 22 and 23 are deemed to be allowable over prior art of record and

claims 7-8, 14-18, 20-22 and 24 are allowed by dependency.

Any comments considered necessary by the applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reason for Allowance".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3691

OA

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691